

### AMENDMENTS TO THE CLAIMS

The following listing of claims, in which added text is underlined and deleted text is stricken through, will replace all prior versions and listings of claims in the application. .

1. (Currently Amended) An isolated nucleic acid molecule defining a promoter which confers or enhances the ability of an operably linked sequence to be expressed ~~upon induction~~, wherein the promoter comprises any one of:

- (i) a sequence of nucleotides having the sequence set forth in SEQ ID NO:3;
- (ii) a fragment of (i) wherein said fragment comprises residues ~~of 2016-2298~~ to 2384 of SEQ ID NO:3;
- (iii) a sequence of nucleotides with at least 95% identity to the sequence of nucleotides of (ii); or
- (iv) a sequence of nucleotides complementary to any one of (i), (ii) or (iii);  
wherein, ~~in its native form, the promoter directs expression of a gene encoding L-aminocyclopropane 1-carboxylic acid (ACC) synthase and is inducible in response to physical stimulation.~~

2-6. (Canceled)

7. (Currently Amended) An isolated promoter which confers or enhances the ability of an operably linked sequence to be expressed ~~upon induction~~, the operably linked sequence comprising a structural gene or other nucleic acid; wherein the promoter is obtainable by the a method of isolating a genomic DNA or a portion thereof from plant cells, rendering the genomic DNA or the portion thereof single stranded and then identifying a region on the genomic DNA which hybridizes to hybridizing to the genomic DNA or the portion thereof a primer corresponding to all or part of SEQ ID NO: 1 or a complementary form thereof and cloning DNA upstream of the region of primer hybridization, wherein the promoter comprises any one of:

- (i) a sequence of nucleotides having the sequence set forth in SEQ ID NO:3;
- (ii) a fragment of (i) wherein said fragment comprises residues ~~of 2016-2298~~ to 2384 of SEQ IDNO:3;
- (iii) a sequence of nucleotides with at least 95% identity to the sequence of nucleotides of (ii); or

(iv) a sequence of nucleotides complementary to any one of (i), (ii) or (iii);  
wherein, in its native form, the promoter directs expression of a gene encoding 1-aminocyclopropane-1-carboxylic acid (ACC) synthase and is inducible in response to physical stimulation.

8. (Canceled)

9. (Currently Amended) The isolated promoter of claim 7 1 obtainable by the method of:

(i) amplifying a region of single stranded plant genomic DNA with the primers SEQ ID NO:4 and SEQ ID NO:5;

(ii) optionally amplifying the amplified DNA of (i) above with primers selected from SEQ ID NO:6 and SEQ ID NO:7 or SEQ ID NO:8 and SEQ ID NO:9;

(iii) running amplified DNA on a gel and excising the product of amplification; and

(iv) subcloning product and identifying the promoter.

10. (Canceled).

11. (Currently Amended) A genetic construct comprising the promoter of claim 1, 7, or 9, 22, 23 or 24.

12. (Currently Amended) The genetic construct of claim 11, ~~further comprising a wherein the structural gene or regulatory gene other nucleic acid is~~ operably linked to said promoter.

13. (Currently Amended) A method of altering a characteristic of a plant, ~~said the~~ method comprising:

introducing the genetic construct of claim 12 into a cell or group of cells of a the plant, wherein ~~said the structural gene or regulatory gene the other nucleic acid facilitates alters the altering of said~~ plant characteristic; regenerating a plant or plantlet from said cell or group of cells carrying said the introduced structural gene or regulatory gene the other nucleic acid; and

growing or subjecting said plant or plantlet to conditions sufficient to induce the promoter operably linked to ~~said the structural gene or regulatory gene the other nucleic acid which then alters the plant characteristic.~~

14. (Previously Presented) The method of claim 13, wherein the altered plant characteristic comprises resistance to a plant pathogen, altered nutritional characteristics, expression of a plant body, an altered biochemical pathway, altered fertility or altered flower color.

15. (Currently Amended) A modular promoter, comprising at least one portion which is obtained from a promoter, wherein the at least one portion comprises anyone of:

- (i) a sequence of nucleotides having the sequence set forth in SEQ ID NO:3;
- (ii) a fragment of (i) wherein said fragment comprises residues of ~~2016-2298~~ to 2384 of SEQ IDNO:3.
- (iii) a sequence of nucleotides with at least 95% identity to the sequence of nucleotides of (ii); or
- (iv) a sequence of nucleotides complementary to anyone of (i), (ii) or (iii),  
~~wherein, in its native form, the promoter directs expression of a gene encoding~~  
~~L-aminocyclopropane L-carboxylic acid (ACC) synthase and is inducible in response to physical~~  
~~stimulation.~~

16-18. (Canceled)

19. (Currently Amended) A transgenic plant comprising the nucleic acid molecule according to anyone of claims 1 ~~and 22 to 24~~.

20. (Currently Amended) A vegetative or a reproductive portion of the transgenic plant of claim 19.

21. (Previously Presented) A cut or severed flower from the transgenic plant of claim 19.

22-25. (Canceled)

26. (Currently Amended) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues of 1773-2384 of SEQ ID NO:3.

27. (Currently Amended) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues of 1601-2384 of SEQ ID NO:3.

28. (Currently Amended) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues of 1357-2384 of SEQ ID NO:3.

29. (Currently Amended) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues of 1189-2384 of SEQ ID NO:3.

30. (Currently Amended) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues of 819-2384 of SEQ ID NO:3.

31. (Currently Amended) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues of 1773-2384 of SEQ ID NO:3.

32. (Currently Amended) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues of 1601-2384 of SEQ ID NO:3.

33. (Currently Amended) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues of 1357-2384 of SEQ ID NO:3.

34. (Currently Amended) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues of 1189-2384 of SEQ ID NO:3.

35. (Currently Amended) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues of 819-2384 of SEQ ID NO:3.

36. (New) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 2016-2384 of SEQ ID NO:3.

37. (New) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 2016-2384 of SEQ ID NO:3.

38. (New) The isolated nucleic acid molecule according to claim 1, wherein the promoter comprises a fragment comprising residues 2384-2473 of SEQ ID NO:3.

39. (New) The isolated promoter of claim 7, wherein the promoter comprises a fragment comprising residues 2384-2473 of SEQ ID NO:3.